1: Nadel E-5 (1934-1936) 1942
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POSSESSION OF LAND

In the discussion of the rights to land obtaining in Nupe two facts must be borne in mind. First, the Fulani conquest, which resulted in the appropriation of part of the vacant tribal land; and second, the very low birth-rate and sparse population of the country. These two factors limit each other's effectiveness; moreover, they affect different parts of the country in different measure. We have seen that the appropriation of tribal land took place only in the area east of the Kaduna (Cis-Kaduna).[1] In the area west of the Kaduna (Trans-Kaduna),[2] land-tenure on the traditional tribal or village basis still obtains, and here the population factor shows itself effective in that it eliminates almost all pressure on the land and all more severe competition for landed possession. Owing to the political factors the opposite is true of Cis-Kaduna, and here a complex system of land ownership and land transfer, which in the extreme case amounts to outright purchase for money, reflects the attempts of the people to counteract the pressure on the land. That land disputes are extremely rare in Trans-Kaduna, but very frequent in the 'conquered' territory, is evidence of the same development. One exception may be mentioned at once: the especially valuable marsh-land groves and plots near river-courses, which the Nupe call *bata* (the Hausa *kurmi*). Disputes about this valuable kind of land occur now and again even in the land-rich Trans-Kaduna, and they are fought with special bitterness in Bida and the crowded 'conquered' territory. The following figures may be quoted in support of this statement: in the years 1934 and 1935 24 cases of land litigation came before the *Etsu*'s Court in Bida; 21 referred to Cis-Kaduna and 3 to Trans-Kaduna; of the latter none was a land case in the narrow sense of the word—one was a dispute about trees, and two were disputes over marsh-land plots.

The description of Nupe land-tenure may start most profitably with an enumeration of the various methods by which a man, stranger or native of Nupe, may acquire land or has been able to acquire land in the past. It must be said first of all that under traditional conditions only men can hold or claim possession of land. The dynastic policy of the Nupe kings has first led to women being invested with fiefs and landed property. Mohammedan law, besides, is inclined to confirm land holding by women in their own right. But the holding of land by women is still extremely rare, and limited to Bida and the surrounding districts I have come across one case only—a court case in which sons and brothers of a recently deceased woman contested the inheritance of her landed property. Needless to say, none of the parties concerned were peasants; the land had been acquired first through the channels of clientship, and the present claimants—Bida Mallams—wanted it only in order to sublet it for profit.

To return to traditional land-tenure. For a Nupe man who comes

[1] The territory between Kaduna and Gbako river, i.e. Beni country, and the districts east of the Gbako river, i.e. Badeggi and Kacha districts.

[2] Trans-Kaduna is the literal translation of the Nupe name for the area: *Lavunkpa* (*Lavun* being the Nupe name for the Kaduna river).

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disputes is this: if the original owner or his heirs had allowed the rent to lapse without calling in the lease, and if the other party can prove that he has worked the land for a long period, this is generally considered sufficient evidence that the original owner has abandoned his claim to the land, whether the new owner is at the time actually working the land or keeping it as reserve. Long occupation is thus recognized as tantamount to ownership. In summing-up a land case in 1935 the *Etsu* Nupe said: 'We do not agree that a man should be evicted from the place which he has been working for a long time.' And in another case, heard in 1934, the claim of the new 'borrower' to the land was confirmed by the court 'because of the many years the farm had been in so-and-so's hands'.

Litigation about 'borrowed' land comes up constantly before the court in Bida. This is a typical case: A. suddenly demanded back two farms which his grandfather and father had 'lent' to another man, because A. was going to be married and needed the land for himself. He based his claim on the fact that only *aro* had been intended, although the rent had been allowed to lapse. Evidence of the original transaction was difficult to obtain, so the court suggested the following compromise: the transfer of the farm of A.'s grandfather was confirmed, but the farm which A.'s father had 'lent' to the other man the latter was ordered to return—a decision which is again based on the length of occupation. The lack of precision in the concept of land-borrowing in Bida and Cis-Kaduna is illustrated still better by the following case, not itself a court case, but, as it were, a typical potential cause for such land-disputes. A certain rich Mallam had 'borrowed' land from the *Cece*, a *bara* of L., a nobleman of high rank. He had paid 8*d.* down, and every year one bundle of sorghum as rent, for five years. The *Cece* died in the meantime, and the present owner maintained in discussion with me that the land was his and could be inherited by his sons after his death. When I discussed the case later with the *Alkali* he confirmed my suspicion that this was not so; the land could in theory be recalled any day after the five years by the heirs of the *Cece*. But the *Alkali* admitted that this may not be the case for ten or even twenty years; by then the rent would have been allowed to lapse and the details of the original transaction would be difficult to establish.

In the course of the Fulani conquest certain farms which were at the time without a definite 'owner', the original owner having emigrated before the lease had lapsed, and the lessees having ceased work on the borrowed farms, were simply appropriated by the Fulani landlords within whose territory this 'ownerless' land was lying.

Trees are included in this short-term lease or 'borrowing'. But the strength of this regulation, in harmony though it is with the general principles of Nupe land-rights, has been weakened under present-day conditions. Economic stress has made fruit-bearing trees a very valuable resource, and farmers have in a few cases ignored the traditional practice, given away trees with the land, and even 'lent' trees independently of the land they stand upon. This sort of temporary transfer of trees is a simple means of obtaining money quickly (for example, for the payment

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427 The lease is only for a lifetime—at least in theory—and has to be renewed by another payment in money if the heirs of the tenant intend to keep the land. If tenants and landlord are on good terms, or are social equals, or if the landlord is under some obligation to his tenant, the renewal is a mere formality and may be granted for a small gratuity. Thus tenants often feel justified in regarding their right to the land as implying absolute ownership, ownership *har dbada*, 'for ever'. But the [691] large number of disputes of this kind which come before the court prove that the arrangement is open to misinterpretation as well as misuse. Landlords who for any reason are dissatisfied with their tenants, or have found a higher bidder, may unexpectedly call in the lease, either at the death of a tenant or during his tenancy, or demand on the threat of eviction another, higher, payment from the tenant or his heirs. Here are two examples: A., a rich landlord, had 'sold' the same farm twice, first for 10*s*., and afterwards for 16*s*. E. transferred a farm-plot that had fallen vacant after the death of the tenant twice in two years, pocketing £3 altogether.

427 425 Like the practice itself the attitude of the court towards these cases of 'purchase' or indefinite lease is ambiguous and uncertain. Only in one respect the issue is certain: all evictions from planted land, between the times of sowing and reaping, is declared illegal on whatever grounds the eviction may be based. Every man is entitled to the fruits of his immediate work. As regards the wider issue the tendency of the court seems to be this: if the transfer of the lease has taken place fairly long ago, the fact of the long occupation (and actual working) of the disputed land is taken to entail permanent ownership; further payments of *dzankd* rent are discouraged, and thus the purchase of the land is recognized as an accomplished fact. (As already said, in cases of this kind an original short-term lease—'borrowing'—is often confused with transfer for an indefinite period or for lifetime.) In other cases, where the transfer took place more recently, the court suggested the alternative solution of a return either of the money or the land.[1] In one or two cases of this kind the *Etsu* even made it clear that he wished to discourage sale of land for money altogether. In summing up a land case that came before the court in 1934, he said that 'it was right to divide up land for the benefit of people who had insufficient land; but this should not be done for money'—a pronouncement which, though morally admirable, does not quite do justice to actual facts. For how, one might ask, can land be 'divided up' for the needy in an area where such strong pressure on land, and such multitude of vested rights in land, obtains, if no allowance is made for some sort of compensation? In the Nupe economic system, firmly based as it is on money, a monetary compensation, sale and purchase, seems the only solution, unless the Administration is prepared to repudiate the whole system of land ownership as it exists in the 'conquered territory' as well.[2]

[1] This decision, however, made no allowance for the diminished value of the land, in the sense that the man to whom it was returned might have to leave it lying fallow for a considerable period before being able to cultivate it again.

[2] In one dispute of similar nature, which came before the court in 1935, the